

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Thompson Analyst: Marion Mann DeJong Bill Number: AB 2435

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 05/23/2000

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Unharvested Fruit Losses Deduction/Losses from Glassy-Winged Sharpshooter Pest or Pierce's Disease

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

This bill would allow a qualified taxpayer a deduction equal to the market price of any unharvested fruit grown by that taxpayer lost as a result of the Glassy-Winged Sharpshooter pest or Pierce's Disease.

SUMMARY OF AMENDMENT

The May 23, 2000, amendments deleted the provisions of the bill as introduced (credit for losses sustained from the Glassy-Winged Sharpshooter pest or Pierce's Disease) and added the provisions discussed in this analysis.

The "Legislative History," "Program History/Background," and the discussion of federal and state law in the "Specific Findings" of the department's analysis of the bill as introduced February 24, 2000, still apply. The remainder of the prior analysis is replaced by this analysis.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately upon enactment. However, the bill specifies that it would apply to taxable and income years beginning on or after January 1, 2001, and before January 1, 2006.

SPECIFIC FINDINGS

This bill would allow a commercial fruit grower a deduction equal to the market price of any unharvested fruit grown by that grower lost as a result of the Glassy-Winged Sharpshooter pest or Pierce's Disease. The deduction would not be allowed to the extent the crop loss was compensated for by insurance or otherwise.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Alan Hunter for G.H.G.

7/12/00

"Market price" would mean the market price that would have been paid for the unharvested fruit at the estimated harvest time for that fruit.

The Agricultural Commissioner, in consultation with the University of California Cooperative Extension Service, would be required to provide written certification of the following to each grower claiming the deduction:

- ?? the estimated harvest time and crop yield,
- ?? the market price that would have been paid for the unharvested fruit,
- ?? that the unharvested fruit was lost as a direct result of the Glassy-Winged Sharpshooter pest or Pierce's Disease,
- ?? when the unharvested fruit was lost, and
- ?? that the taxpayer is a commercial fruit grower.

The taxpayer would obtain the written certification from the Agricultural Commissioner, retain a copy of that certification, and provide it to the Franchise Tax Board upon request.

If the deduction for the year exceeds the taxpayer's income (adjusted taxable income for personal income tax taxpayers and net income for bank and corporation taxpayers), the excess may be carried forward to reduce income for up to eight years.

Implementation Considerations

If this bill were amended to resolve the following considerations, implementing the bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

- ?? It is unclear how the deduction carryforward would interact with any NOL carryforwards. Further, it appears that the taxpayer could claim both this carryforward and a NOL carryforward for the same loss.
- ?? The term "commercial fruit grower" should be clearly defined to resolve any ambiguity that may exist. In addition, the term "market price" should be clarified to specify whether it is the amount paid to the grower (wholesale price) or the retail price. Unclear terms could cause disputes between taxpayers and the department.

Technical Considerations

Requiring the Agricultural Commissioner to provide certification to the taxpayer should have the effect of requiring the fruit to be grown in this state. However, for clarity, amendments 1 and 2 would provide that the crops must be grown on land located in California, so that a commercial fruit grower that sustains losses on crops in another state could not claim a deduction against California income.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

The revenue loss from this bill, under the assumptions discussed below, is estimated to be as follows:

Revenue Impact of AB 2435 Income/Taxable Years Beginning On or After 1/1/2001 Enactment Assumed After June 30, 2000 (In Millions)			
Revenue Impact	2000-1	2001-2	2002-3
	Minor	(\$1)	(\$1.5)

Minor = Less than \$500,000.

This analysis assumes only losses incurred in California would qualify and does not account for changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Based on information received from the State Department of Food and Agriculture and other sources, the amount of losses in California due to Pierce's disease in 2000 is projected to be \$20 million. This amount was adjusted for inflation in subsequent years. For purposes of applying the proposed deduction, it was assumed one-half of taxpayers would have positive net incomes and one-half operating losses.

BOARD POSITION

Pending.

Analyst	Marion Mann DeJong
Telephone #	845-6979
Attorney	Patrick Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2435
As Amended May 23, 2000

AMENDMENT 1

On page 2, line 8, after "grown" insert:

on land in California

AMENDMENT 2

On page 3, line 30, after "grown" insert:

on land in California